IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Bail Appl..No. 6675 of 2007()

CRIME NO.363/07 OF PUTHENCRUZ POLICE STATION

.....

PETITIONERS/ACCUSED 1 & 2

---

1. K.C.THAMPI, AGED 39, S/O.CHACKO,
KUZHIVELIPUTHENPURAYIL, MATTAKKUZHI KARA,
KOKKAPPILLY P.O., THIRUVANIYOOR VILLAGE.

2. SHANMUGHAN, AGED 37, S/O.VELAYUDHAN,
PAZHAYIDATHU HOUSE, KAKKADU KARA,
MAMALA P.O., THIRUVANIYOOR VILLAGE.

BY ADV. SRI.T.A.SHAJI
SRI.K.C.PAULOSE

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, (REPRESENTING THE S.I. OF POLICE,
PUTHENCRUZ POLICE STATION).

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6675 OF 2007

Dated this the 12th day of November, 2007

ORDER

Second application for anticipatory bail. The petitioners face allegations under the Explosive Substances Act. The crux of the allegations against the petitioners is that they used explosives without legal authority for the purpose of blasting of rocks. A neighbour complained and that is how the crime was registered and investigation commenced. The petitioners apprehend imminent arrest. They have come to this Court with an application for anticipatory bail and by order dated 20/8/07 in B.A.No.5020/07, the said application for anticipatory bail was dismissed.

2. The petitioners have now come to this Court again with a renewed prayer for anticipatory bail. The learned counsel for the petitioners prays that the petitioners may now

be granted anticipatory bail.

3. What is the reason? This is the second application for anticipatory bail. The first application was dismissed. That order has become final without challenge. The petitioners have now come to this Court to point out that there has been a settlement between the de facto complainant – an adjacent property owner, and the petitioner. Subsequently, the activity of blasting of rocks has been discontinued. The police have no allegation that the petitioners have any terrorist or anti-national activities. Their allegation was that the use of explosive was causing difficulties and disturbance to the neighbour. That dispute has been settled subsequently. The activity of blasting rocks has been discontinued. The police do not need the petitioners for custodial interrogation. In these circumstances, anticipatory bail may now be considered favourably, submits the learned Public Prosecutor.

4. The learned Public Prosecutor does not oppose the application. The learned Public Prosecutor asserts that the activity of blasting of rocks has now been discontinued and enquiry reveals that the dispute with the neighbour has been settled amicably also.

5. I am, in these circumstances, satisfied that anticipatory

bail can be granted to the petitioners subject to appropriate conditions.

6. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 19/11/07. They shall be released on regular bail on their executing bonds for Rs.50,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 20/11/07 and 21/11/07 and thereafter on all Monday between 10 a.m. and 12 noon for a period of one month. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender

on 19/11/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.50,000/- each without any sureties undertaking to appear before the learned Magistrate on 19/11/07.

Sd/-
(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge